



Department of Defense Senior Intelligence Oversight Official

The DoD Intelligence Oversight Program A Department Level Perspective

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DoD Senior Intelligence Oversight Official**





Enabling Learning Objectives (ELOs)

- Identify the **key directives** guiding intelligence oversight.
- Describe **the Defense components** to which the IO Program applies.
- Describe the **Joint IG's responsibilities** for providing independent oversight of intelligence activities.



Enabling Learning Objectives (ELOs)

- Identify the **reporting requirements** for:
Questionable Intelligence Activities (QIAs)
Significant/Highly Sensitive Matters (S/HSMs)
- Describe the **inspection methodology** used by the DoD SIOO as a model for Joint IG IO inspections
- Define: **U.S. Person**
Defense Intelligence Component
Questionable Intelligence Activity
Significant/Highly Sensitive Matter



AGENDA

- **Intelligence Oversight “Why We Have It”**
- **The OSD IO Community**
The Players, Relationships, and Regulations
- **Essentials for Successful IO Programs**
What an IO Program Is...and Isn’t
Roles and Responsibilities
- **Inspection Techniques and Trends**

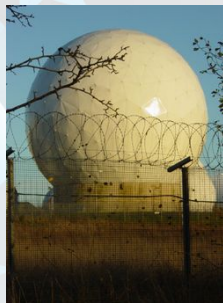
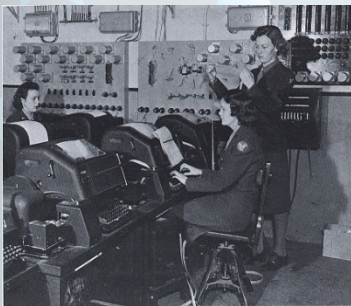


DoD SIOO

Intelligence Oversight A Brief Historic Overview



Background “Why We Have It”



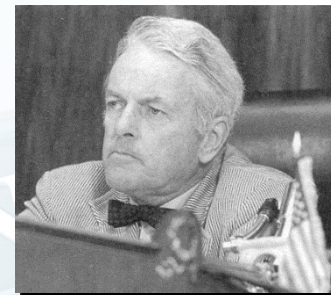
PROJECT SHAMROCK PROJECT MINARET



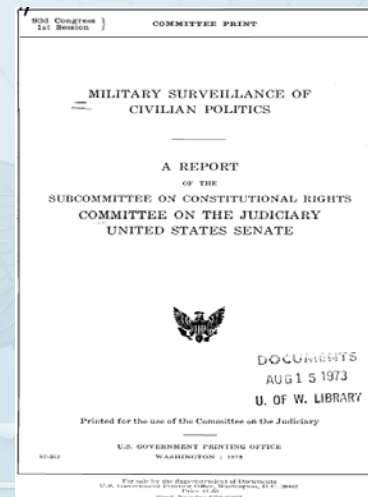
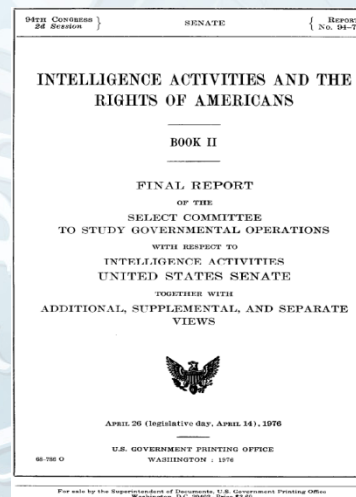
VIETNAM ERA ANTI-WAR MOVEMENT



CIVIL RIGHTS MOVEMENT



Senator Frank Church Representative Otis Pike CONGRESSIONAL HEARINGS





CHURCH COMMITTEE REPORT

PIKE COMMITTEE REPORT

94th Congress }
2d Session } SENATE { REPORT
No. 94-755

INTELLIGENCE ACTIVITIES AND THE RIGHTS OF AMERICANS

BOOK II

FINAL REPORT
OF THE
SELECT COMMITTEE
TO STUDY GOVERNMENTAL OPERATIONS
WITH RESPECT TO
INTELLIGENCE ACTIVITIES
UNITED STATES SENATE
TOGETHER WITH
ADDITIONAL, SUPPLEMENTAL, AND SEPARATE
VIEWS



APRIL 26 (legislative day, APRIL 14), 1976

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1976

68-788 O

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**“Army surveillance of
civilians ... in the 1960’s
was both massive and
unrestrained ... over
1,500 plainclothes
agents.”**

**“... not so much a
conscious effort to
subvert the freedoms ...
a classic example of a
burgeoning bureaucracy
going out of control ...”**

93d Congress }
1st Session }

COMMITTEE PRINT

MILITARY SURVEILLANCE OF CIVILIAN POLITICS

A REPORT
OF THE
SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE



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WASHINGTON : 1973

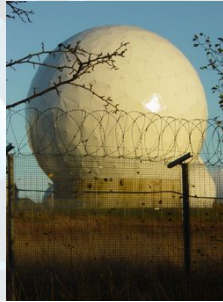
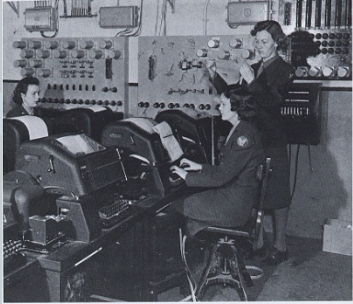
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BACKGROUND

“Why We Have It”



PROJECT SHAMROCK
PROJECT MINARET



VIETNAM ERA
ANTI-WAR MOVEMENT



CIVIL RIGHTS
MOVEMENT



Senator Frank Church Representative Otis Pike

CONGRESSIONAL HEARINGS

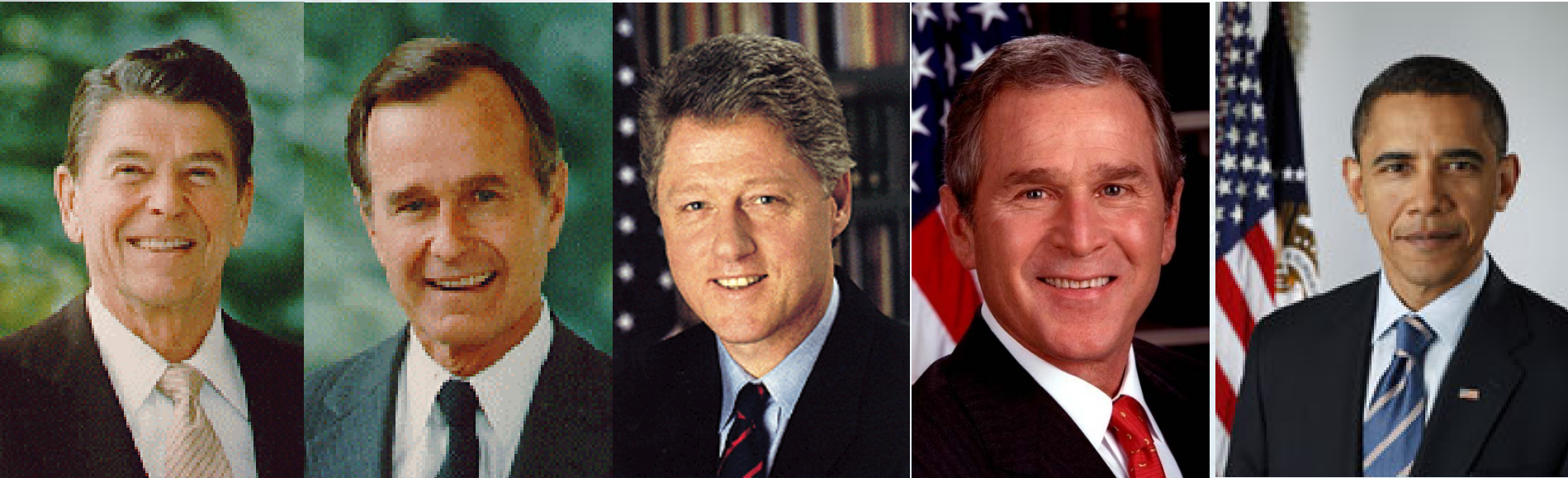


EXECUTIVE ORDERS



BACKGROUND

EXECUTIVE ORDER 12333



- **PRESIDENT REAGAN SIGNED E.O.12333 IN 1981**
- **VALIDATED BY SUBSEQUENT ADMINISTRATIONS**
- **UPDATED IN 2008 AND STILL CURRENT**



INTELLIGENCE OVERSIGHT

The purpose of the Intelligence Oversight program is:

- to enable DoD intelligence components to effectively carry out their appropriately authorized functions...
- while ensuring their activities that affect U.S. persons are carried out in a manner that protects the constitutional rights and privacy of such persons.

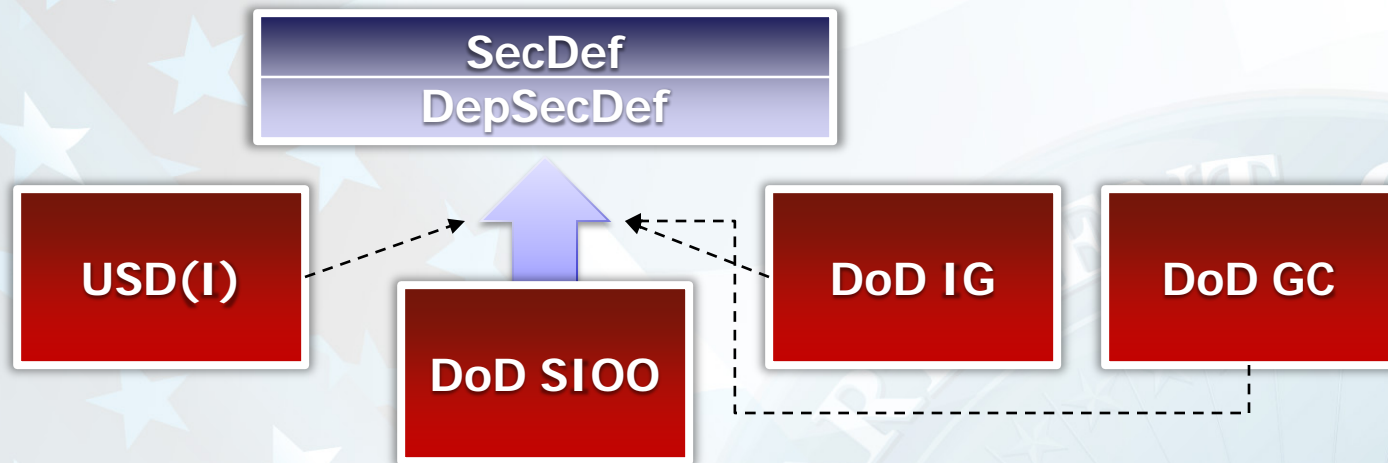


DoD SIOO

The Intelligence Oversight Community and Regulations



OSD Intelligence Oversight





DoD Intelligence Components

SERVICES

- U.S. ARMY
- U.S. NAVY & USMC
- U.S. AIR FORCE

AGENCIES

- NSA
- DIA
- NGA
- NRO

NATIONAL GUARD

- ARMY NATIONAL GUARD
- AIR NATIONAL GUARD

CCMDs

- NORTHCOM
- SOUTHCOM
- EUCOM
- CENTCOM
- PACOM
- AFRICOM
- SOCOM
- STRATCOM
- TRANSCOM

Other organizations, staffs, and offices when used for intelligence or CI activities to which Part 2 of E.O. 12333 applies.



Key Orders, Directives, and Regulations

- **Executive Order 12333**
- **DoD Directive 5240.01**
- **DoD Manual 5240.01**
(DoD 5240.1-R remains in effect for Procedures 11-13)
- **DoD Directive 5148.13**
- **Joint Staff Regulation CJCSI 5901.01C**
- **Combatant Command Policies and Regulations**
- **Service and Agency Regulations**
 - AR 381-10
 - SECNAV Instruction 3820.3E
 - SECNAV Instruction 5000.34
 - MCO 3800.2
 - DIAD 5240.200
 - NGA Instruction NI 8900.4R5
 - NSA 1-23
 - AF Instruction 14-104



DoD SIOO

DoDM 5240.01 Content Fundamentals



DoDM 5240.01

THE PROCEDURES

1. **APPLICABILITY**: ALL PERSONNEL CONDUCTING INTELLIGENCE ACTIVITIES UNDER DOD AUTHORITIES

2. **COLLECTION**

3. **RETENTION**

4. **DISSEMINATION**

**RULES FOR HANDLING
IDENTIFYING INFORMATION ABOUT
U.S. PERSONS**



PROCEDURE ONE

Scope

DOES NOT APPLY TO:

- **Law Enforcement of Civil Disturbance Activities**
- **Defense Support to Civil Authorities**
- **Humanitarian Assistance**
- ***Disaster Readiness, Response, and Recovery**
- ***Environmental and Security Vulnerability Studies**
- ***Mapping, Charting, and Geodesic Missions**
- **National Manager for National Security Systems Activities**

* National Geospatial-Intelligence Agency authorized missions in 10 USC 442 and 50 USC 3045(b)



U.S. PERSON

“Who...or What...Are They?”

- A. A **U.S. CITIZEN**
- B. An Alien Known by a Defense Intelligence Component to be a **PERMANENT RESIDENT ALIEN**
- C. An **UNINCORPORATED ASSOCIATION** Substantially Composed Of U.S. Citizens Or Permanent Resident Aliens
- D. A **CORPORATION INCORPORATED IN THE U.S** Except For A Corporation Directed And Controlled By a Foreign Government Or Governments



PROCEDURE TWO

Collection

Information that identifies a U.S. Person may be *intentionally* collected by a DoD intelligence component ...

only if the USPI is **necessary for the performance of an authorized intelligence mission**

and only if the USPI falls within **one of the following categories:**





PROCEDURE TWO

Collection

1. Publicly Available Information
2. Information Obtained with Consent
3. Foreign Intelligence
4. Counterintelligence
5. Threats to Safety
6. Protection of Intelligence Sources, Methods, and Activities
7. Current, Former, or Potential Sources of Assistance
8. Persons in Contact with Sources or Potential Sources
9. Personnel Security
10. Physical Security
11. Communications Security Investigation
12. Overhead and Airborne Reconnaissance
13. Administrative purposes



PROCEDURE THREE

Retention

DoD Intelligence Components must evaluate information that may contain USPI to determine if it may be permanently retained. Time limits:

Intentionally Collected USPI - 5 years

**Incidentally Collected USPI - 5 years (person or place in the U.S.)
25 years (person or place outside the U.S.)**

Voluntarily Provided USPI - 5 years

***Special Circumstances Collection - 5 years + enhanced safeguards**

**based on Volume, Proportion of USPI, Sensitivity, and Intrusiveness*



PROCEDURE FOUR

Dissemination

Information that identifies a United States person may be **disseminated**:

- To any person or entity if the information is publicly available or with consent of the subject
- To another Intelligence Community element to allow the recipient to determine whether the information is relevant to its responsibilities and can be retained
- To a DoD or other Federal Government Entity if needed for the performance of its mission
- To a foreign government or international organization if:
 - ✓ Needed for the performance of its mission
 - ✓ Disclosure is consistent with international agreement and foreign disclosure policy



DoDM 5240.01

Other Procedures

5-9. INTRUSIVE COLLECTION TECHNIQUES

- ✓ **Electronic Surveillance**
- ✓ **Concealed Monitoring**
- ✓ **Physical Searches**
- ✓ **Searches and Examination of Mail**
- ✓ **Physical Surveillance**

10. UNDISCLOSED PARTICIPATION IN ORGANIZATIONS



DoD SIOO

DoDD 5148.13 “Intelligence Oversight”



DoDD 5148.13

- Establishes **policies**, assigns **responsibilities**, and provides **procedures** for employee conduct and identifying, investigating, and reporting QIAs and S/HSMs
- Prescribes the intelligence oversight **responsibilities and functions, relationships, and authorities** of the DoD Senior Intelligence Oversight Official
- Prescribes the **responsibilities and relationships** of the USD(I), the GC DoD, and the DoD Component heads regarding intelligence oversight.



DoDD 5148.13

DoD SIOO Responsibilities:

- **Conduct Inspections**
- **Develop Policy (DoDM 5240.01, DoDD 5148.13)**
- **Receive, Review, Assess QIA and S/HSM Reports**
- **Monitor, Review, Conduct Administrative Investigations**



DoDD 5148.13

DoD Component Responsibilities:

- **Conduct Inspections**
- **Develop Implementing Guidance**
- **Report and Investigate QIAs and S/HSMs**
- **Appoint an Intelligence Oversight Officer**
 - **Appropriate grade & experience**
 - **Access to intelligence activities**
 - **Access to Component head**



DoDD 5148.13

Identifying QIAs and S/HSMs:

- **Employees must recognize and report QIAs and S/HSMs**
 - **Build requirement into PWS/SOW for contractors**
- **DoD Components must have a process to report QIAs and S/HSMs through the chain of command to DoD SIOO**
- **DoD Component IGs conduct inspections to assess compliance**
 - **Statutory vs. Non-Statutory**



DoDD 5148.13

Investigating QIAs and S/HSMs:

- **All QIAs and S/HSMs must be referred to Component IG and GC for review (refer potential crimes to DCIO or MDCO)**
- **Every QIA and S/HSM requires a written investigation report**
 - **If substantiated: Findings, Cause, Remedial Action**
- **DoD SIOO and GC DoD review DoD Component investigations to assess effectiveness in identifying cause and remedial actions**



DoDD 5148.13

Reporting QIAs and S/HSMs:

- **S/HSMs – Immediately**
- **QIAs – Quarterly**
- **Trend Analysis**





DoDD 5148.13

Required Training:

Initial and annual IO training tailored to mission required for all employees

Familiarity with authority and restrictions in DoDD 5240.01 and DoDM 5240.01; responsibilities for reporting QIAs and S/HSMs



DoD SIOO

Intelligence Oversight Programs



Intelligence Oversight Programs

More Than a Three Ring Binder

- **Training**
 - ✓ Tailored Content and Presentation Format
 - ✓ Records Management
- **Day to Day Command and Control**
 - ✓ IO incorporated in planning and execution
 - ✓ Legal review of proposals, plans, and executions
- **Independent Assessment**
 - ✓ Assessment from the outside looking in – Generally the IG
- **Response Mechanism**
 - ✓ Internal and External Reporting systems and processes
 - ✓ Timely and Thorough Command Inquiry
 - ✓ Appropriate Corrective Action



Shared Responsibility





Roles and Responsibilities

Commanders or Directors:

- Support an active program
- Designate appropriate oversight officials
- Provide for appropriate training
- Provide reprisal protection for persons reporting questionable activities
- Implement correct action to address substantiated allegations





Roles and Responsibilities

Intelligence personnel:

- The first line of defense
- Know the standards and comply
- Willingly and actively serve as IOOs and participants in day-to-day control and execution of intelligence activities
- Report any:
 - ✓ Questionable Intelligence Activities
 - ✓ Significant or Highly Sensitive Matters





Roles and Responsibilities

JAGs and GCs are responsible for:

- Initial legal review of intelligence activities and plans
- Continued monitoring of intelligence activities' legality
- Cross talk with IGs as appropriate





Roles and Responsibilities

IGs conduct IO inspections to ensure:

- **Employees understand rules and responsibilities**
- **Only elements with assigned mission are conducting intelligence functions**
- **Intelligence activities comply with laws and policies**
- **Reporting procedures exist**





Roles and Responsibilities

Statutory IGs:

- **May elect not to conduct intelligence oversight inspections or investigations**
- **In this case, the DoD Component head will designate another element of the component to perform this function**



Roles and Responsibilities

DoD SIOO and GC DoD

- **Develop IO Policy and issue guidance**
- **Inspect and provide Department-level legal review of intelligence activities and plans**
- **Monitor progress and review findings of inquiries and investigations**
- **Inform and advise OSD Officials and report to the President's Intelligence Oversight Board and DNI**





Intelligence Oversight Reporting



IDENTIFYING, INVESTIGATING, AND REPORTING QUESTIONABLE ACTIVITIES

Responsibility is Shared By:

- ✓ **COMMANDERS AND LEADERS**
- ✓ **EMPLOYEES**
- ✓ **INSPECTORS GENERAL**
- ✓ **JAGs and GCs**
- ✓ **GC DoD and DoD SIOO**



Intelligence Oversight Reporting

- **Questionable Intelligence Activities (QIAs)**
- **Immediate and Quarterly Reporting**
- **Significant or Highly Sensitive Matters (S/HSMs)**



A QUESTIONABLE INTELLIGENCE ACTIVITY IS ONE THAT MAY VIOLATE:

- Law
- Executive Order
- Presidential Directive
- Intelligence Community Directive
- DoD Policy

...and is Incident to an Intelligence or Intelligence-Related Activity or misuse of an intelligence authority

**Questionable Activities Frequently Involve
More Than U.S. Person Issues**



SIGNIFICANT OR HIGHLY SENSITIVE MATTER

- **Impugn the Reputation or Integrity of the IC**
- **Call Into Question the Propriety of an Intelligence Activity**
 - **Activity Involving Congressional Inquiries or Investigations**
 - **Activity That May Result in Adverse Media Coverage**
 - **Activity That May Impact on Foreign Relations or Foreign Partners**
 - **Activity Related to Systemic Compromise, Loss, or Unauthorized Disclosure of Classified or Protected Information**



REPORTABLE ISSUES

- **Questionable Intelligence Activities (QIA)**
 - ✓ **Report Quarterly**
- **Significant or Highly Sensitive Matters (S/HSM)**
 - ✓ **Report Immediately**
- **Crimes Reported to the Attorney General (1995 DoD-DoJ MOU)**
- **Congressional Testimony, Notifications, Reports, or Briefings**
 - ✓ **Individual Members of Congress**
 - ✓ **Congressional Committees**
 - ✓ **Members of the Congressional Staff**



DoD SIOO

IO Inspection Program



Attributes of the Best IO Programs

- **Command and Leader Involvement**
- **Identified Responsibilities and Standards**
- **Formally Designated IO Officials**
- **Training – EARLY, OFTEN, CREATIVE**
 - **Tailored to the Organization and Mission**
- **Active Part of all Operational Planning and Execution**
- **Active SJA/GC Involvement**
- **QIA and S/HSM Reporting**
 - **Timeliness**
 - **Prompt and Appropriate Investigation and Corrective Action**



Inspection Methodology Objectives

- **Assess compliance with laws & policy**
- **Identify potential or emerging areas of concern affecting the Component and/or Defense Intelligence Enterprise**
- **Identify and promulgate best practices**
- **Improve DoD intelligence oversight policy and processes**



Inspection Methodology Process

- ☐ **Policy**
- ☐ **Checklist**
- ☐ **Schedule**
- ☐ **Preparation**
- ☐ **Execution**
- ☐ **Follow-up**





Inspection Methodology Process

- ✓ **Policy**
- ☐ **Checklist**
- ☐ **Schedule**
- ☐ **Preparation**
- ☐ **Execution**
- ☐ **Follow-up**





Inspection Methodology Policy

- **DoDD 5148.13, “Intelligence Oversight,” April 26, 2017**
- **All other policies governing intelligence, counterintelligence, and intelligence-related activities**





Inspection Methodology Process

- ☐ Policy
- ✓ Checklist
- ☐ Schedule
- ☐ Preparation
- ☐ Execution
- ☐ Follow-up





Inspection Methodology

- **General (DoDD 5240.01, DoDM 5240.01)**
- **Functional**
 - ❖ **HUMINT**
 - ❖ **SIGINT**
 - ❖ **MASINT**
 - ❖ **CI**
 - ❖ **GEOINT**
 - ❖ **Analysis**



Inspection Methodology Process

- ☐ Policy
- ☐ Checklist
- ✓ Schedule
- ☐ Preparation
- ☐ Execution
- ☐ Follow-up





Inspection Methodology Schedule

1st Qtr FY 17 **USTRANSCOM – NGB**
2nd Qtr FY 17 **USSOUTHCOM – USPACOM**
3rd Qtr FY 17 **NSA – USCENTCOM**
4th Qtr FY 17 **DIA**

1st Qtr FY 18 **DTRA/JIDO – USEUCOM**
2nd Qtr FY 18 **NAVY – USSOCOM – NGA**
3rd Qtr FY 18 **ARMY – NRO**
4th Qtr FY 18 **USSTRATCOM – USCYBERCOM**

1st Qtr FY 19 **DSS – PFPA – JOINT STAFF**
2nd Qtr FY 19 **AIR FORCE – USAFRICOM**
3rd Qtr FY 19 **USNORTHCOM – USMC**
4th Qtr FY 19 **USFK – USFJ – MDA**



Inspection Methodology Process

- ☐ Policy
- ☐ Checklist
- ☐ Schedule
- ☒ Preparation
- ☐ Execution
- ☐ Follow-up





Inspection Methodology Preparation

- **Notification Memo (POC, SIIs)**
- **Read-Ahead Documents**
 - **Implementing Guidance**
 - **SOPs**
 - **Training POI**
 - **Mission Brief**
 - **Previous Inspection Reports**
 - **QIAs/SHSMs**
- **SMEs**



Inspection Methodology

Special Interest Items

- **Intelligence and intelligence-related ACCMs and SAPs**
- **Command processes to assess Service Component compliance with laws and policy governing the conduct of intelligence activities**
- **Command processes for collecting and handling USPI in support of information operations**
- **Command processes to evaluate for permanent retention USPI**
- **Use of cover to facilitate open source collection**



Inspection Methodology Process

- ☐ Policy
- ☐ Checklist
- ☐ Schedule
- ☐ Preparation
- ☒ Execution
- ☐ Follow-up





Inspection Methodology Execution

- **30-day review**
- **1-5 inspectors from DoD SIOO, OUSD(I), others**
- **5-10 day site visit at HHQ and other locations**



Inspection Methodology Report

Report findings, recommendations, observations, and best practices to SECDEF and Component Head (approximately 60 days after site visit)

- **Identify Areas for Improvement and Best Practices**
- **Note Areas for DoD Policy and SIOO Support Improvement**
- **No Surprises**



Inspection Methodology Process

- ☐ **Policy**
- ☐ **Checklist**
- ☐ **Schedule**
- ☐ **Preparation**
- ☐ **Execution**
- ☒ **Follow-up**





Inspection Methodology Follow-up

- **DoD SIOO works with Component to resolve discrepancies – continuous support**
- **Identify trends for senior leader insight**
- **Special Interest Items**
- **Incorporate policy improvement suggestions during revision cycle**



Inspection Methodology

Continuous Engagement

- **Staff Assistance Visits**
- **Ride-Along's**
- **Limited notice inspections**
- **Investigations**





What We Are Seeing

A Generally Compliant Community

- **NON-COMPLIANCE MOSTLY INADVERTENT**
 - **Unjustifiable Files on Domestic Groups**
 - **U.S. Person Data Improperly Included in Products**
 - **Inappropriate Maneuver Commander Taskings**
 - **Inappropriate Open Source Netsurfing**
- **OCCASIONAL INTENTIONAL NON-COMPLIANCE**
 - **Willful Disregard of Regulations for a Perceived Greater Good**
 - **Contractor Misconduct**
 - **Employment of Unauthorized Source Nets**
 - **Misuse of Intelligence Resources for Personal Gain**



Past Problem Areas

- **Operators get trained, leaders don't**
- **Lack of familiarity with regulations**
- **Intelligence collection and production actions get ahead of authorities and approvals**
- **IO (Intelligence Oversight) and IO (Information Operations) processes blur**



ELO Review



ELO Review

- Identify the **key directives** guiding IO.
 - ✓ E.O. 12333 - The Presidential Order
 - ✓ DoDD 5240.01 - The DoD Implementing Policy
 - ✓ DoDM 5240.01 - The DoD Guidelines
 - ✓ DoDD 5148.13 - The DoD Intelligence Oversight Program
- Describe the **Defense Intelligence Components**
 - ✓ All DoD organizations that perform foreign intelligence or counterintelligence missions or functions
- Describe the **Joint IG's responsibilities** for providing independent oversight of intelligence activities.



ELO Review

IGs conduct IO inspections to ensure:

- **Employees understand rules and responsibilities**
- **Only elements with assigned mission are conducting intelligence functions**
- **Intelligence activities comply with laws and policies**
- **Reporting procedures exist**





ELO Review

- Identify the **reporting procedures** for QIAs and S/HSMs
 - ✓ **Governed by DoDD 5148.13**
 - ✓ **Report QIAs Quarterly**
 - ✓ **Report S/HSMs Immediately**
- Describe the **inspection methodology** used by the DoD SIOO as a model for Joint IG's IO inspections
 - ✓ **Policy**
 - ✓ **Checklist**
 - ✓ **Schedule**
 - ✓ **Preparation**
 - ✓ **Execution**
 - ✓ **Follow-up**
- Define the following:
 - ✓ **U.S. Person**
 - ✓ **Questionable Intelligence Activity**
 - ✓ **Significant/Highly Sensitive Matter**



ELO Review

- A. A **U.S. CITIZEN**
- B. An Alien Known by a Defense Intelligence Component to be a **PERMANENT RESIDENT ALIEN**
- C. An **UNINCORPORATED ASSOCIATION** Substantially Composed Of U.S. Citizens Or Permanent Resident Aliens
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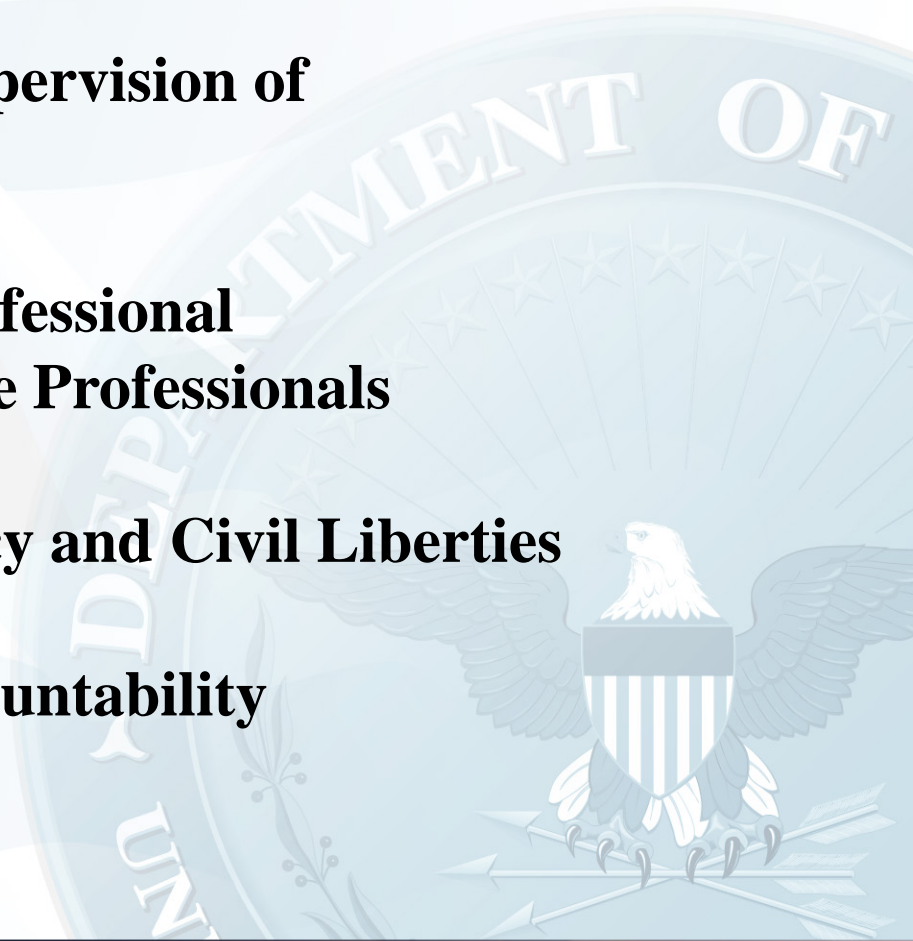
Parting Thoughts



“What’s It All About?”

A Summation in Four Bullets

- **Command, Control, and Supervision of Intelligence Activities**
- **Rules for Governing the Professional Conduct of Intelligence Professionals**
- **A Program to Protect Privacy and Civil Liberties**
- **A System of Ethics and Accountability**





DoD SIOO Points of Contact

<http://dodsioo.defense.gov/>



QUESTIONS?